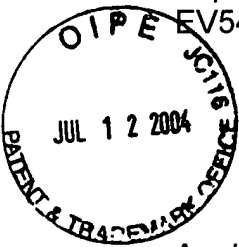


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PATENT



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application of Michael S. South et al.

Art Unit 1626

Serial No. 10/706,595

Filed November 12, 2003

Confirmation No. 9970

For POLYCYCLIC ARYL AND HETEROARYL SUBSTITUTED BENZENES USEFUL
FOR SELECTIVE INHIBITION OF THE COAGULATION CASCADE

Examiner S. Kumar

July 12, 2004

RESPONSE TO RESTRICTION REQUIREMENT/ELECTION OF SPECIES

TO THE ASSISTANT COMMISSIONER FOR PATENTS,

SIR:

This letter is in response to the Office action mailed on June 22, 2004, in which an election of a Group of claims and an election of species for prosecution on the merits was requested.

According to 35 U.S.C. §121, a restriction is proper only if there are at least two independent and distinct inventions. Furthermore, "[i]f the search and examination of an entire application can be made without serious burden, the Examiner must examine it on the merits, even though it includes claims to distinct or independent inventions." MPEP §803. No showing has been made by the Office that the search and examination of this entire application will require serious burden. Instead, the Office asserts that the "34 groups of invention are distinct from each other on the basis of their chemically distinct structure, which are classified in a different class/subclass according to U.S. classification system." See, page 6 of June 22, 2004 Office action. However, many of the groups appear to be in the same classification. For example, groups I, II, IV, VII, and VIII are all classified in group 564. The subclasses were not provided in and thus the Office has failed to make a showing that each chemical grouping belongs in a separate classification.

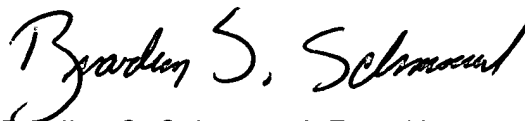
Subject to the foregoing traverse, applicants hereby elect the claims of Group I, claims 1-59 drawn to non-heterocyclic compounds, compositions and methods of use when A, Ψ , K, or E⁰ is CONR.

The Office has additionally required applicants to elect a species for examination. In response, applicants elect the species recited on page 234, lines 7-8 wherein R² is 3-amino-5-carboxyphenyl, B is cyclobutyl, A is a bond, Y⁰ is 4-amidinobenzyl, J is fluoro and R¹ is hydrido. In this instance, E⁰ is CONH, which is consistent with the election of the claims of Group I. Claims 1-22 and 39-59 read upon the elected species.

According to M.P.E.P. §809.02(c), an examiner's action subsequent to an election of species should include a complete action on the merits of all claims readable on the elected species and according to M.P.E.P. §809.02(e), whenever a generic claim is found to be allowable in substance, action on the species claims shall thereupon be given as if the generic claim were allowed. Thus, if it is determined that the elected species is patentable, it is incumbent upon the Office to search additional species that fall within any allowable generic claims.

Applicants reserve the right to file divisional applications directed to the non-elected subject matter.

Respectfully submitted,



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